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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of:
Eva Ackerman and Randy Gene Clark

Serial No.: 09/764,572

Filed: January 18, 2001

For: A Method of Assisting a
Compromised Barrier

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Atty. Dkt. No.: 041443-00752

Group Art Unit: 2831

Examiner: Patel, Dhirubhai R.

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

DECLARATION UNDER 37 C.F.R. §1.131 OF RANDY CLARK

This Declaration Under 37 C.F.R. §1.131 serves to establish invention of the subject matter set forth in the claims of U.S. patent application serial no. 09/764,572, filed on January 18, 2001 in the United States on a date prior to the effective date of U.S. Patent No. 6,521,834 B1 ("*Dykhoff*"), which has been cited by the Examiner in the above-referenced Proceeding.

I, Randy Clark, do hereby declare and state that:

1. I am an inventor of the above-identified patent application;
2. I am currently employed by The RectorSeal Corporation, the assignee of record of the above-referenced application;
3. I have been involved in the firestopping industry for over twenty (20) years and have a thorough understanding of firestop systems. In addition, I have participated in the development of, establishment of, and revisions to industry standards relating to firestopping requirements for building codes. During that time, I have been active in various trade

organizations, including the National Fire Protection Association (NFPA), Southern Building Code Congress International (SBCCI), International Conference of Building Officials (ICBO), Building Officials and Code Administrators International (BOCA) and Construction Specifications Institute (CSI). I have served as President for two terms for the International Firestop Council (IFC) and was appointed by Underwriter's Laboratory (UL) as a member of its Standards Technical Panel (STP). I have also participated on E-05, Fire Standards, and E-06, Performance of Buildings, subcommittees of the American Society for Testing and Materials (ASTM).

4. From 1984 to 1990, I was engaged in the firestopping industry having formed the firestopping consulting firm of R. G. Clark and Associates in San Antonio, Texas, in 1986. During 1990-1993, I worked for two manufacturers of firestopping systems, serving as the Northeast Regional Sales Manager (Hevi-Duty Nelson Corporation) and Manager of Technical Services (International Protective Coatings) where my responsibilities included testing, product development and technical assistance.

5. In 1993, I became the Manager of Technical Services for The RectorSeal Corporation in Houston, Texas, and have been involved in the management of the UL® certified fire test facility as well as product development. Presently, I serve as Manager of Firestop Technologies for the International Department.

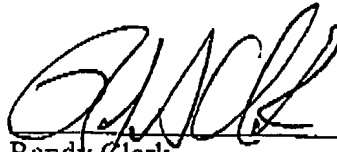
6. The effective date of *Dykhoff* is no earlier than August 25, 2000. The invention in the above-referenced patent application was reduced to practice earlier than August 25, 2000.

7. To establish the reduction to practice of the invention in the U.S. set forth in the above-referenced patent application prior to August 25, 2000, I hereby submit, as attached, Exhibit A (with dates blacked out), a copy of a redacted e-mail to me from Richard N. Walke of

UL Laboratories wherein Mr. Walke discusses testing (prior to August 25, 2000) of devices having a fire protection gasket behind a plastic or steel cover plate of an electrical outlet box. The composition of the intumescent gasket containing graphite is referenced in redacted Exhibit B (with dates prior to August 25, 2000, blacked out). The results of the testing F0419029, referenced in Exhibit A, are reported in redacted Exhibit C (with dates prior to August 25, 2000, blacked out), wherein F0419029 2hr refers to a 2-hour maximum rated barrier having an intumescent gasket rated for 2 hours. Such barrier's rating has been reestablished for 2 hours. The testing of Exhibit C was conducted prior to August 25, 2000, and the results were compiled in Exhibit C prior to August 25, 2000. Exhibit D is a copy of the laboratory testing report (with dates prior to August 25, 2000, blacked out) reporting the results of our laboratory testing for the F0419029 tests. Similar testing using BlazeSeal, an intumescent product of The RectorSeal Corporation, is shown in Exhibit E (with dates prior to August 25, 2000, blacked out). All of the testing set forth (and reported) in Exhibits A through E was conducted in the United States.

I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under 18 USC §1001 and that such willful false statements may jeopardize the validity of the application or any patent issued thereon.

DATED: 30 March '04


Randy Clark

Randy Clark

Randy,

One item we were planing to take care of last week but didn't was the size of the "gasket" to be utilized as fire protection behind cover plates of outlet boxes.

According to my notes, there have been two successful tests of gaskets. The first test was F0419029. It utilized plastic cover plates. The second test was F0420037. It used steel cover plates.

During my [REDACTED] visit to RectorSeal, I obtained samples of the gaskets used with the plastic cover plates in Test F0419029. The size of

EXHIBIT A

the gasket was as follows:

~~_____~~ The gasket was 1.5 mm thick and
was made from the 4X intumescent material.

Thanks for your assistance.

Rich Walke

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DESCRIPTION

PRODUCT COVERED:

USC, CNC

Electrical box inserts [REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

ENGINEERING CONSIDERATIONS (NOT FOR FIELD REPRESENTATIVE'S USE):

CNC indicates investigation to Canadian Standard CAN4-S115M.

MANUFACTURING PROCESS:

BASE INTUMESCENT SHEET

The material is blended in the proportions described below:

| <u>Material</u> | <u>Percent Composition by Weight</u> |
|-----------------------------|--------------------------------------|
| Hydrated Aluminum Silicate | |
| Acid Treated Flake Graphite | |

RNW/DJK:bam
NKDLS

EXHIBIT C

| | | | | | | | |
|--------------|-------|--------|-------|----------|----------|-------|------|
| F04190212 hr | Metal | 3 5/8" | Metal | 4 11/16" | Standard | Metal | Pass |
|--------------|-------|--------|-------|----------|----------|-------|------|

RECTORSEAL

61

Company Name:
Address/Phone:

Wall Furnace
T/C & Pressure Taps Locations

File No.

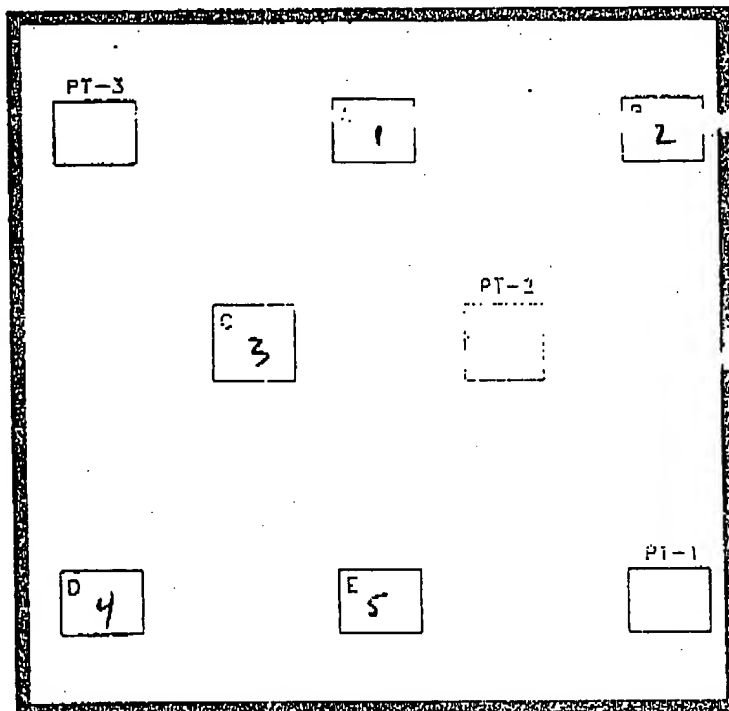
Project 4" 1/16" box, Metal Plate, Plastic Plate, blaze seal

Test Date

Test No. 029

Test Standard FOY19029.xls

1. 1-a
2. 2-b
3. 3-c
4. 4-d
5. 5-e
6.
7.
8.
9.
10.



FRONT

#18 failed at 1:45
#16 failed at 1:50

PASSED

11. Cold Face 1
12. Screw 1
13. Plate 1
14. Cold Face 2
15. Cold Face 3
16. Screw 2
17. Plate 2
18. Hole 1
19. Cold Face 4
20. Cold Face 5
21. Cold Face 6
22. Cold Face 7
23.
24.
25.
26.
27.
28.
29.
30.
31.

INSTRUMENT CALIBRATION

Instr.

I.D.

Date Last Calb.

Date of Next Calb.

Hose Stream Gauge
Setra (Pressure Tap)

1.
2.
3.
4.

T/C Reading (Computer)
Furnace T/C's
Relative Humidity Meter

EXHIBIT D

Testing of 1.5mm BlazeSeal electrical plate covers

| Test Date | Foil Tape? | Face Plate | Stud Type | Test Length | Test Result |
|-----------|------------|------------|-----------|-------------|-------------|
| ██████ | Yes | Plastic | Metal | 2 hour | Pass |
| ██████ | Yes | Metal | Metal | 2 hour | Pass |

Last Updated

JES ██████